



March 30, 2001

ENGROSSED HOUSE BILL No. 1806

DIGEST OF HB 1806 (Updated March 29, 2001 1:52 PM - DI 106)

Citations Affected: IC 35-38; IC 35-44.

Synopsis: Home detention. Requires a probation department or community corrections program supervising a violent offender on home detention to initially notify a law enforcement agency if the violent offender violates the home detention order. Prohibits a court from placing an offender on home detention if the offender resides in a different county, unless the offender is eligible for home detention in the county of residence and will be supervised by the probation department or a community corrections program in the offender's county of residence. Provides that home detention fees are to be paid to the county supervising the offender. Requires a probation department or community corrections program to constantly monitor a violent offender. Requires a probation department or community corrections department to develop criteria for determining if a person is a violent offender. Creates an offense for a person who is on home detention and who leaves the home, remains outside the home, or travels to an unauthorized location. Makes the offense a Class A misdemeanor.

Effective: July 1, 2001.

Mellinger, Crooks, Lutz J

(SENATE SPONSORS — MEEKS C, LANANE)

January 17, 2001, read first time and referred to Committee on Courts and Criminal Code.
February 21, 2001, amended, reported — Do Pass.
February 27, 2001, read second time, amended, ordered engrossed.
February 28, 2001, engrossed.
March 5, 2001, read third time, passed. Yeas 98, nays 0.

SENATE ACTION

March 7, 2001, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.
March 29, 2001, amended, reported favorably — Do Pass.

EH 1806—LS 7799/DI 105+



C
o
p
y

March 30, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

ENGROSSED HOUSE BILL No. 1806

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-38-2.5-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. As used in this
3 chapter, "home" means:

4 **(1) the actual interior living area of the temporary or permanent**
5 **residence of an offender; or**

6 **(2) if the offender's residence is a multi-family dwelling, the**
7 **unit in which the offender resides, and not the:**

8 **(A) halls or common areas outside the unit where the**
9 **offender resides; or**

10 **(B) other units, occupied or unoccupied, in the multi-family**
11 **dwelling.**

12 The term includes a hospital, health care facility, hospice, group home,
13 maternity home, residential treatment facility, and boarding house. The
14 term does not include a public correctional facility or the residence of
15 another person who is not part of the social unit formed by the
16 offender's immediate family.

17 SECTION 2. IC 35-38-2.5-2.3 IS ADDED TO THE INDIANA

EH 1806—LS 7799/DI 105+



C
o
p
y

CODE AS A NEW SECTION TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2001]: **Sec. 2.3. As used in this chapter,**
"constant supervision" means monitoring a violent offender
twenty-four (24) hours each day by means described in section
12(b) of this chapter.

SECTION 3. IC 35-38-2.5-4.5 IS ADDED TO THE INDIANA
 CODE AS A NEW SECTION TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2001]: **Sec. 4.5. As used in this chapter,**
"security risk" means a person who is:

- (1) a flight risk; or
- (2) a threat to the physical safety of the public.

SECTION 4. IC 35-38-2.5-4.7 IS ADDED TO THE INDIANA
 CODE AS A NEW SECTION TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2001]: **Sec. 4.7. As used in this chapter,**
"violent offender" means a person who is:

- (1) convicted of an offense or attempted offense, except for an
 offense under IC 35-42-4 or IC 35-46-1-3, under
 IC 35-50-1-2(a), IC 35-42-2-1, IC 35-42-2-1.3, IC 35-43-1-1,
 IC 35-44-3-5, IC 35-45-10-5, or IC 35-47-5-1;
- (2) charged with an offense or attempted offense listed in
 IC 35-50-1-2(a), IC 35-42-2-1, IC 35-42-2-1.3, IC 35-43-1-1,
 IC 35-44-3-5, IC 35-45-10-5, or IC 35-47-5-1; or
- (3) a security risk as determined under section 10 of this
 chapter.

SECTION 5. IC 35-38-2.5-5 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 5. (a) Except as**
provided in section 5.5 of this chapter, as a condition of probation a
 court may order an offender confined to the offender's home for a
 period of home detention lasting at least sixty (60) days.

(b) The period of home detention may be consecutive or
 nonconsecutive, as the court orders. However, the aggregate time
 actually spent in home detention must not exceed:

- (1) the minimum term of imprisonment prescribed for a felony
 under IC 35-50-2; or
- (2) the maximum term of imprisonment prescribed for a
 misdemeanor under IC 35-50-3;

for the crime committed by the offender.

(c) The court may order supervision of an offender's home detention
 to be provided by the probation department for the court or by a
 community corrections program that provides supervision of home
 detention.

(d) A person's term of confinement on home detention under this



C
o
p
y

chapter is computed on the basis of the actual days the person spends on home detention.

SECTION 6. IC 35-38-2.5-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 5.5. (a) A court may not place an offender who resides in a different county on home detention unless:**

(1) the offender is eligible for home detention in the county in which the person resides; and

(2) supervision of the offender will be conducted by the probation department or community corrections program located in the county in which the offender resides.

(b) If an offender is:

(1) currently serving home detention in a county that operates a home detention program; and

(2) being supervised by a probation department or community corrections program located in a different county;

the court shall order that supervision of the offender be transferred to the probation department or community corrections program located in the county where the offender resides.

(c) All home detention fees described in section 8 of this chapter shall be collected by the probation department or community corrections program that supervises the offender.

SECTION 7. IC 35-38-2.5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 10. (a) Each probation department or community corrections department shall establish written criteria and procedures for determining whether an offender or alleged offender that the department supervises on home detention qualifies as a violent offender.**

(b) A probation or community corrections department shall use the criteria and procedures established under subsection (a) to establish a record keeping system that allows the department to quickly determine whether an offender or alleged offender who violates the terms of a home detention order is a violent offender.

(c) A probation department or a community corrections program charged by a court with supervision of offenders and alleged offenders ordered to undergo home detention shall provide all law enforcement agencies (including any contract agencies) having jurisdiction in the place where the probation department or a community corrections program is located with a list of offenders and alleged offenders under home detention supervised by the probation department or the community corrections program. The list must include the following

C
o
p
y



information about each offender **and alleged offender:**

- (1) The offender's name, any known aliases, and the location of the offender's home detention.
- (2) The crime for which the offender was convicted.
- (3) The date the offender's home detention expires.
- (4) The name, address, and telephone number of the offender's supervising probation or community corrections program officer for home detention.
- (5) An indication of whether the offender or alleged offender is a violent offender.**

(d) Except as provided under section 6(1) of this chapter, a probation department or community corrections program charged by a court with supervision of offenders and alleged offenders ordered to undergo home detention shall, at the beginning of a period of home detention, set the monitoring device and surveillance equipment to minimize the possibility that the offender or alleged offender can enter another residence or structure without a violation.

SECTION 8. IC 35-38-2.5-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 12. (a) A probation department or community corrections program charged by a court with supervision of a violent offender placed on home detention under this chapter shall cause a local law enforcement agency or contract agency described in section 10 of this chapter to be the initial agency contacted upon determining that the violent offender is in violation of a court order for home detention.**

(b) A probation department or community corrections program charged by a court with supervision of a violent offender placed on home detention under this chapter shall maintain constant supervision of the violent offender using a monitoring device and surveillance equipment. The supervising entity may do this by:

- (1) using the supervising entity's equipment and personnel; or**
- (2) contracting with an outside entity.**

SECTION 9. IC 35-38-2.5-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 13. An offender who:**

- (1) leaves the offender's home in violation of section 6(1) of this chapter or without documented permission from the supervising entity;**
- (2) remains outside the offender's home in violation of section 6(1) of this chapter or without documented permission from**



C
o
p
y

1 the supervising entity; or

2 (3) travels to a location not authorized under section 6(1) of
3 this chapter or not authorized in writing by the supervising
4 entity;

5 commits unauthorized absence from home detention, a Class A
6 misdemeanor.

7 SECTION 10. IC 35-38-2.6-4.5 IS ADDED TO THE INDIANA
8 CODE AS A NEW SECTION TO READ AS FOLLOWS
9 [EFFECTIVE JULY 1, 2001]: **Sec. 4.5. If a court places a person on**
10 **home detention as part of a community corrections program, the**
11 **placement must comply with IC 35-38-2.5, including the**
12 **supervision, monitoring, and unauthorized absence provisions of**
13 **IC 35-38-2.5-10, IC 35-38-2.5-12, and IC 35-38-2.5-13.**

14 SECTION 11. IC 35-44-3-5 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 5. (a)** A person, except
16 as provided in subsection (b), who intentionally flees from lawful
17 detention commits escape, a Class C felony. However, the offense is a
18 Class B felony if, while committing it, the person draws or uses a
19 deadly weapon or inflicts bodily injury on another person.

20 (b) A person who knowingly or intentionally violates a home
21 detention order ~~and~~ or intentionally removes an electronic monitoring
22 device commits escape, a Class D felony.

23 (c) A person who knowingly or intentionally fails to return to lawful
24 detention following temporary leave granted for a specified purpose or
25 limited period commits failure to return to lawful detention, a Class D
26 felony. However, the offense is a Class C felony if, while committing
27 it, the person draws or uses a deadly weapon or inflicts bodily injury on
28 another person.

C
o
p
y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1806, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 35-38-2.5-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 4.5. As used in this chapter "security risk" means a person who is:**

- (1) a flight risk; or**
- (2) a threat to the physical safety of the public.**

SECTION 2. IC 35-38-2.5-4.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec 4.7. As used in this chapter "violent offender" means a person who is:**

- (1) convicted of an offense or attempted offense, except for an offense under IC 35-42-4 or IC 35-46-1-3, under IC 35-50-1-2(a);**
- (2) charged with an offense or attempted offense listed in IC 35-50-1-2(a); or**
- (3) a security risk as determined under section 10 of this chapter.**

SECTION 3. IC 35-38-2.5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 10. (a) Each probation department or community corrections department shall establish written criteria and procedures for determining whether an offender or alleged offender that the department supervises on home detention qualifies as a violent offender.**

(b) A probation or community corrections department shall use the criteria and procedures established under subsection (a) to establish a record keeping system that allows the department to quickly determine whether an offender or alleged offender who violates the terms of a home detention order is a violent offender.

(c) A probation department or a community corrections program charged by a court with supervision of offenders and alleged offenders ordered to undergo home detention shall provide all law enforcement agencies having jurisdiction in the place where the probation department or a community corrections program is located with a list of offenders and alleged offenders under home detention supervised by the probation department or the community corrections program.



C
o
p
y

The list must include the following information about each offender **and alleged offender:**

- (1) The offender's name, any known aliases, and the location of the offender's home detention.
- (2) The crime for which the offender was convicted.
- (3) The date the offender's home detention expires.
- (4) The name, address, and telephone number of the offender's supervising probation or community corrections program officer for home detention.
- (5) An indication of whether the offender or alleged offender is a violent offender.**

(d) Except as provided under section 6(1) of this chapter, a probation department or community corrections program charged by a court with supervision of offenders and alleged offenders ordered to undergo home detention shall, at the beginning of a period of home detention, set the monitoring device and surveillance equipment to ensure that the offender or alleged offender may not enter another residence or structure without a violation."

Page 1, line 3, after "Sec.12." insert "(a)".

Page 1, line 5, delete "an" and insert "**a violent**".

Page 1, line 8, after "the" insert "**violent**".

Page 1, after line 9, begin a new paragraph and insert:

"(b) A probation department or community corrections program charged by a court with supervision of a violent offender placed on home detention under this chapter shall maintain constant supervision of the violent offender using a monitoring device and surveillance equipment. The supervising entity may do this by:

- (1) using the supervising entity's equipment and personnel; or**
- (2) contracting with an outside entity."**

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1806 as introduced.)

DVORAK, Chair

Committee Vote: yeas 13, nays 0.

EH 1806—LS 7799/DI 105+



C
O
P
Y

HOUSE MOTION

Mr. Speaker: I move that House Bill 1806 be amended to read as follows:

Page 1, between the enacting clause and line 1 begin a new paragraph and insert:

"SECTION 1. IC 35-38-2.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. As used in this chapter, "home" means:

- (1) the actual living area of the temporary or permanent residence of an offender; or
- (2) if the offender's residence is a multi-family dwelling, the unit in which the offender resides, and not the:
 - (A) halls or common areas outside the unit where the offender resides; or
 - (B) other units, occupied or unoccupied, in the multi-family dwelling.

The term includes a hospital, health care facility, hospice, group home, maternity home, residential treatment facility, and boarding house. The term does not include a public correctional facility or the residence of another person who is not part of the social unit formed by the offender's immediate family.

SECTION 2. IC 35-38-2.5-2.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2.3. As used in this chapter, "constant supervision" means monitoring a violent offender twenty-four (24) hours each day by means described in section 12(b) of this chapter."

Page 1, line 9, delete "Sec" and insert "Sec."

Page 1, line 13, after "IC 35-50-1-2(a)" insert ", IC 35-42-2-1, IC 35-42-2-1.3, IC 35-43-1-1, IC 35-44-3-5, IC 35-45-10-5, or IC 35-47-5-1".

Page 1, line 15, after "IC 35-50-1-2(a)" insert ", IC 35-42-2-1, IC 35-42-2-1.3, IC 35-43-1-1, IC 35-44-3-5, IC 35-45-10-5, or IC 35-47-5-1".

Page 3, after line 11, begin a new paragraph and insert:

"SECTION 5. IC 35-38-2.5-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 13. An offender who:

- (1) leaves the offender's home in violation of section 6(1) of this chapter or without documented permission from the supervising entity;
- (2) remains outside the offender's home in violation of section

EH 1806—LS 7799/DI 105+



C
o
p
y

6(1) of this chapter or without documented permission from the supervising entity; or

(3) travels to a location not authorized under section 6(1) of this chapter or not authorized in writing by the supervising entity;

commits unauthorized absence from home detention, a Class A misdemeanor.

SECTION 6. IC 35-44-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) A person, except as provided in subsection (b), who intentionally flees from lawful detention commits escape, a Class C felony. However, the offense is a Class B felony if, while committing it, the person draws or uses a deadly weapon or inflicts bodily injury on another person.

(b) A person who knowingly or intentionally violates a home detention order ~~and~~ or intentionally removes an electronic monitoring device commits escape, a Class D felony.

(c) A person who knowingly or intentionally fails to return to lawful detention following temporary leave granted for a specified purpose or limited period commits failure to return to lawful detention, a Class D felony. However, the offense is a Class C felony if, while committing it, the person draws or uses a deadly weapon or inflicts bodily injury on another person."

Renumber all SECTIONS consecutively.

(Reference is to HB 1806 as printed February 22, 2001.)

MELLINGER

C
o
p
y



COMMITTEE REPORT

Mr. President: The Senate Committee on Corrections, Criminal and Civil Procedures, to which was referred House Bill No. 1806, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 4, strike "actual" and insert "**interior**".

Page 2, line 8, after "chapter" insert ",".

Page 2, line 14, after "chapter" insert ",".

Page 2, between lines 24 and 25, begin a new paragraph and insert:
 "SECTION 5. IC 35-38-2.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) **Except as provided in section 5.5 of this chapter**, as a condition of probation a court may order an offender confined to the offender's home for a period of home detention lasting at least sixty (60) days.

(b) The period of home detention may be consecutive or nonconsecutive, as the court orders. However, the aggregate time actually spent in home detention must not exceed:

- (1) the minimum term of imprisonment prescribed for a felony under IC 35-50-2; or
- (2) the maximum term of imprisonment prescribed for a misdemeanor under IC 35-50-3;

for the crime committed by the offender.

(c) The court may order supervision of an offender's home detention to be provided by the probation department for the court or by a community corrections program that provides supervision of home detention.

(d) A person's term of confinement on home detention under this chapter is computed on the basis of the actual days the person spends on home detention.

SECTION 6. IC 35-38-2.5-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 5.5. (a) A court may not place an offender who resides in a different county on home detention unless:**

- (1) **the offender is eligible for home detention in the county in which the person resides; and**
- (2) **supervision of the offender will be conducted by the probation department or community corrections program located in the county in which the offender resides.**

(b) **If an offender is:**

- (1) **currently serving home detention in a county that operates**

EH 1806—LS 7799/DI 105+



C
o
p
y

a home detention program; and
 (2) being supervised by a probation department or community corrections program located in a different county;
 the court shall order that supervision of the offender be transferred to the probation department or community corrections program located in the county where the offender resides.

(c) All home detention fees described in section 8 of this chapter shall be collected by the probation department or community corrections program that supervises the offender."

Page 2, line 39, after "agencies" insert "(including any contract agencies)".

Page 3, line 17, delete "ensure" and insert "minimize the possibility".

Page 3, line 18, delete "may not" and insert "can".

Page 3, line 25, after "agency" insert "or contract agency".

Page 4, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 8. IC 35-38-2.6-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 4.5. If a court places a person on home detention as part of a community corrections program, the placement must comply with IC 35-38-2.5, including the supervision, monitoring, and unauthorized absence provisions of IC 35-38-2.5-10, IC 35-38-2.5-12, and IC 35-38-2.5-13.**"

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1806 as reprinted February 28, 2001.)

LONG, Chairperson

Committee Vote: Yeas 9, Nays 0.

C
O
P
Y

